

fi. fa. issued by plaintiffs for the costs of an unsuccessful application made by the defendant to a Judge of the Court of Appeal (1 O. W. R. 399) under the order of that Court dismissing the application with costs. The defendant now moved on the grounds that there was no power to make the order for payment of costs, and that there was no right to issue the writ out of the High Court.

W. H. Bartram, London, for defendant.

J. C. Dromgole, London, for plaintiffs.

MEREDITH, J.—By sec. 77 of the Judicature Act the defendant's application to the Court of Appeal for leave to appeal was expressly authorized, and power is given to the Court or a Judge to grant—in certain cases—or to refuse, the leave applied for; and by sec. 119, subject to Rules of Court and to the express provisions of any statute, the costs of and incidental to all proceedings in the Supreme Court of Judicature are in the discretion of the Court or Judge, and the Court or Judge has full power to determine by whom and to what extent such costs shall be paid; and part of Rule 1130 is to the same effect; and under these provisions the statutory power to support the order was given. Under Rule 3, by analogy to the procedure under Rule 818, execution may be rightly issued in the High Court to enforce payment of such costs as those in question, in the manner provided for in the latter Rule. Motion dismissed with costs, fixed at \$5. If defendant desires, the execution may be stayed pending an appeal from this order, upon payment to the sheriff of the amount to be levied, including sheriff's fees, etc., to abide the result of the appeal.

MEREDITH, J.

JUNE 30TH, 1902.

CHAMBERS.

RE CRAWFORD.

*Will—Direction to "Supply Wants" of Widow and that Executors might "Draw upon Such Money" as Testator might Die Possessed of—Sale or Mortgage of Real Estate.*

Application (heard at London) by executors of will for opinion of Court. The question was whether the executors were empowered by the will to resort to the testator's real estate in order to supply the "wants" of the widow. The will provided that, if the widow should be in need of more than the income given to her in it, "to supply her wants," the executors might "draw upon such money" as the testator might die possessed of. By a codicil, the executors were empowered to draw upon any of his property to supply those wants.